

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

UNITED STATES OF AMERICA

Plaintiff

v.

Case No. 2:15-mj-30598
Magistrate Judge Anthony P. Patti

JAMIEL LAMONT CAROTHERS

**ORDER FINDING DEFENDANT COMPETENT TO PROCEED,
SEALING FORENSIC EXAMINATION REPORT**

Defendant appeared before me for what was supposed to have been a detention hearing on December 18, 2015, at which time it was determined, pursuant to 18 U.S.C. § 4241(a), that there was “reasonable cause to believe that the defendant may presently be suffering from a mental disease or defect rendering him mentally incompetent to the extent that he is unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense.” Accordingly, on December 21, 2015, the Court ordered the defendant to be subjected to a custodial psychological examination, pursuant to 18 U.S.C. § 4241(a), setting a hearing to take place on March 17, 2016. (DE 9.) A stipulation and order for extension of the competency exam was subsequently docketed, re-setting the hearing for April 6, 2016. (DE 13.) By an additional stipulation and

order, and a re-notice to appear, the competency hearing was again re-set and was ultimately held on April 27, 2016. (DE 14, 15.)

The hearing took place in accordance with 18 U.S.C. §§ 4241(c) and 4247(d), at which the Court took telephonic testimony from Ron Nieberding, Ph.D., a licensed clinical psychologist who performed the forensic competency examination of Defendant and who issued a forensic report dated April 12, 2016 (“Forensic Report”), which the parties stipulated to have admitted into evidence. At the hearing, Defendant was offered the opportunity to testify, to present evidence, to subpoena witnesses on his behalf, and to confront and cross-examine Dr. Nieberding, the only witness who testified. Defendant, through counsel, confirmed that he did not wish to exercise any of these statutory rights and that he would stand by the psychologist’s Forensic Report. The attorneys for the government and for the defendant each were given the opportunity to address the Court.

In ruling from the bench that Defendant is mentally competent, the Court relied upon the Forensic Report, and also made note of unsworn statements previously made on the record by the defendant’s mother and sister, which also

support the Court's findings. The Court further notes herein that at the time of his initial appearance on December 16, 2015 and subsequent hearings held on December 18, 2015, the defendant himself was *voir dired* by the Court and demonstrated that he: (a) is aware of the nature of the charges brought against him; (b) understands what is taking place in Court; (c) understands his right to have counsel; (d) is able to clearly answer questions regarding his finances for the purpose of determining eligibility for appointment of counsel in the absence of a financial affidavit; (e) is aware of his right to remain silent, to refrain from answering questions, and to refrain from testifying; (f) understands his right to demand and have a detention hearing and the nature of such a hearing; and, further (g) understands his own mental health history and the perceived need for medication and to follow the directions of his physicians. Accordingly, pursuant to 18 U.S.C. § 4241(d), for the reasons stated on the record, all which is incorporated in this order by reference as though fully restated herein, **the Court HEREBY FINDS** by a preponderance of the evidence that:

(a) Defendant is mentally competent to stand trial and was competent during pretrial matters;

(b) Defendant understands the nature and consequences of the proceedings against him; and

(c) Defendant is able to assist properly in his own defense.

IT IS FURTHER ORDERED that the aforementioned forensic report be filed under seal, and that counsel may petition the Court to have the forensic report removed from the record should this matter be resolved by means other than a trial.

Dated: April 27, 2016

s/Anthony P. Patti
ANTHONY P. PATTI
U.S. MAGISTRATE JUDGE

I hereby certify that a copy of this order has been sent to parties of record on April 27, 2016, electronically and/or by U.S. Mail.

s/Michael Williams
Case Manager for the
Honorable Anthony P. Patti